



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

JUL 1 _ 2016

Via Email (rick@pitmanfarms.com) and
Certified Mail No.: 7014 1820 0000 4722 5102
Return Receipt Requested

In Reply Refer to:
Pitman Farms, Inc.
1489 K Street, Sanger, CA 93657

Rick Pitman
Owner
Pitman Farms, Inc.
1489 K Street
Sanger, CA 93657

Re: Notification of Potential Enforcement Action for Apparent Violations of Section 304 of the Emergency Planning and Community Right-to-Know Act, Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act, and Section 112(r)(7) of the Clean Air Act

Dear Mr. Pitman:

On November 25, 2014, representatives from the U.S. Environmental Protection Agency ("EPA"), Region IX, conducted an inspection of the poultry processing facility owned and operated by Pitman Farms, Inc. (the "Company"), located at 1489 K Street, Sanger, CA (the "Facility"). The intent of the inspection was to determine the Facility's compliance with requirements under the Emergency Planning and Community Right-to-Know Act ("EPCRA") Sections 304-312; the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") Section 103; and the Risk Management Program requirements promulgated under Section 112(r)(7) of the Clean Air Act ("CAA").

Based upon the information revealed during this inspection and gathered subsequent to the inspection in response to EPA's requests, EPA is preparing to bring a civil administrative action against the Company to assess penalties, pursuant to Section 325 of EPCRA, as amended, 42 U.S.C. § 11045; Section 109 of CERCLA, as amended, 42 U.S.C. § 9609; and Section 113(d) of the CAA, 42 U.S.C. § 7413(d). The allegations being considered include violations of Section 304 of EPCRA, 42 U.S.C. § 11004; Section 103 of CERCLA, as amended, 42 U.S.C. § 9603; Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7) and the Risk Management Program requirements promulgated thereunder at 40 CFR Part 68.

Specifically, EPA is considering the following allegations against the Company:

1. The Company failed to immediately notify the National Response Center of the release of a reportable quantity of anhydrous ammonia, in violation of Section 103 of CERCLA, 42 U.S.C. § 9603. The release of 2,700 pounds of anhydrous ammonia occurred on September 23, 2014, at 6:45 am, and the Company did not report the release to the National Response Center until September 23, 2014, at 7:44 am.
2. The Company failed to immediately provide notice of the release of anhydrous ammonia to the State emergency response commission, in violation of Section 304 of EPCRA, 42 U.S.C. § 11004. The release of 2,700 pounds of anhydrous ammonia occurred on September 23, 2014, at 6:45 am, and the Company did not provide notice of the release to the California Office of Emergency Services until September 23, 2014, at 7:53 am.
3. The Company failed to document that process equipment complies with recognized and generally accepted good engineering practices, in violation of 40 C.F.R. § 68.65(d)(2). During the inspection, inspectors observed:
 - a. The ammonia system pipes and valves lacked labeling, in contradiction to the American National Standards Institute and American Society of Mechanical Engineers standard no. A13.1.2007 “Standard for the Identification of Pipes” and the International Institute of Ammonia Refrigeration (“IIR”) Bulletin 114 (2014) “Guidelines for Identification of Ammonia Refrigeration Piping and System Components,” which specify requirements for the labeling and other identification of ammonia refrigeration system piping and other componentry. The inspectors found no evidence that the pipes had ever been labeled.
 - b. Entries to the engine room were not marked to limit entry to only authorized personnel, also one of the doors (to the processing area) opened inward instead of outward. The American Society of Heating, Refrigerating, and Air-Conditioning Engineers (“ASHRAE”) 15-2013, “Safety Standard for Refrigeration Systems,” requires both that 1) access to the refrigerating machinery room shall be restricted to authorized personnel. Doors shall be clearly marked or permanent signs shall be posted at each entrance to indicate this restriction; and 2) engine room doors shall open outward. The inspectors found no evidence of prior compliance with these engineering practices.
 - c. at the time of the release, the termination of the relief header manifold was at a two-foot height above the roof line and in a horizontal alignment. ASHRAE 15-2013 requires that ammonia relief systems discharge at least fifteen feet above an adjacent work surface and directed upward so as not to potentially expose anyone to a discharge.
4. The Company failed to certify annually that operating procedures (“OPs”) are current and accurate, in violation 40 CFR § 68.69(c). The current set of OPs reportedly were created for Sanger Poultry by its consultant Resource Compliance Inc. and were initially reviewed and

accepted by the Company on September 13, 2012. Company files document an OP review and recertification on July 31, 2014, but there is no record of any review having been conducted between the date of initial acceptance and the July 2014 review.

5. The Company failed to ensure and document that each employee involved in operating a process has received training in an overview of the process and in applicable OPs, in violation of 40 CFR § 68.71. The Company could not demonstrate:

- a. that it had prepared a record demonstrating that employees had ever received and understood Company-provided training in OPs related to the process prior to October 8, 2014; or
- b. that respirator fit had ever been tested prior to January 15, 2015, for the two employees who are designated to perform oil draining operations, the OP for which requires the use of air purifying respirators.

6. The Company failed to comply with 40 CFR § 68.73(d) in that the Company could not provide documentation or any other evidence of:

- a. any inspection, testing, and preventive maintenance of the high-level float for Intercooler IC-1 prior to the September 23, 2014, ammonia release incident;
- b. having responded to a published recall notice for its Sporlan MA-17 solenoid valves. A failure of this type of valve caused a release of approximately 1,538 pounds of anhydrous ammonia on May 2, 2016; or
- c. any annual inspections conforming with IIAR Bulletins 109 prior to October 2014 (post-incident).

7. The Company failed to correct deficiencies in equipment that are outside of acceptable limits (defined by the process safety information compiled pursuant to 40 CFR § 68.65) before further use or in a safe and timely manner when necessary means are taken to assure safe operation, in violation of 40 CFR § 68.73(e). The Company's consultant, Resource Compliance Inc., conducted an MI audit in accordance with IIAR Bulletin 110 in October/November 2014. The report from this MI audit identified a total of 49 instances of non-compliance with codes and/or issues "in need of attention to preserve the remaining integrity of a piece of equipment and or to improve safety, operability and maintenance." However, as of the date of this letter many of these deficiencies remain uncorrected.

8. The Company failed to implement written procedures to manage changes (except for "replacements in kind") to process equipment, in violation of 40 CFR § 68.75(a). Company representatives indicated that Compressor #5 had been replaced approximately two years prior to the inspection, yet there was no management of change documentation associated with this activity and the inspectors could not verify the exact date of the change. Company documents had also indicated that the new Compressor #5 was not connected to the logic control system, which was identified as a contributing factor to the September 23, 2014, release.

9. The Company failed to retain the two most recent compliance audit reports, in violation of 40 CFR § 68.79(e). The Company provided documentation of a compliance audit dated January 2013 but was unable to furnish documentation of any compliance audits conducted prior to that time.

10. The Company failed to promptly address and resolve incident investigation report findings and recommendations, in violation of 40 CFR § 68.81(e). At the time of the inspection, the Company was only able to document that four of the seven findings and recommendations in the incident investigation report of the September 23, 2014, ammonia release incident had been promptly addressed and resolved. The Company has provided documentation showing that the remaining three findings and recommendations were later addressed and resolved by December 22, 2014.

11. The Company failed to develop and implement an emergency response program for the purpose of protecting public health and the environment, in violation of 40 CFR § 68.95(a). During and immediately after the September 23, 2014, ammonia release, an employee performed response activities despite the Company not having an emergency response plan that complies with the requirements of 40 CFR § 68.95. The Company identifies the Company as being non-responding in its RMP submittal to EPA, and the Company's document entitled "Emergency Response Program" clearly states that employees will not respond to releases. However, in response to the September 23, 2014, release an employee donned protective gear and climbed onto the roof to mitigate the release. In attempting to mitigate the release the employee also applied water to liquid anhydrous ammonia that had pooled on the roof, which exacerbated the effects of the release.

The Company is under an Administrative Compliance Order on Consent to ensure that these violations are being corrected and that the Facility will be in compliance on or by August 15, 2016. Before filing a Determination of Violation, Compliance Order, and Notice of Right to Request a Hearing ("Complaint"), EPA is extending to you the opportunity to advise EPA of any other information that we should consider. Relevant information may include any evidence of your reliance on compliance assistance, additional compliance tasks performed subsequent to the investigation, or financial factors bearing on your ability to pay a civil penalty.

Your response to this letter must be made by a letter, signed by a person or persons duly authorized to represent the Company. Please send your response by certified mail, return receipt requested, addressed to:

Jeremy Johnstone (SFD-9-3)
Environmental Engineer
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco CA 94105

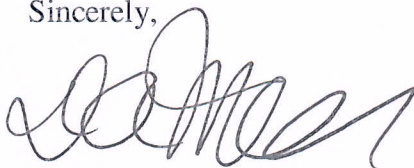
Please provide any information that EPA should consider so that it is *received* by August 5, 2016. EPA anticipates filing a Complaint in this matter on or about September 15, 2016, unless

the Company first advises EPA, with supporting information, of substantial reasons not to proceed as planned. Any penalty proposed for violation of the CAA will be calculated pursuant to EPA's June 2012 "Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 CFR Part 68."¹ Any penalty proposed for violations of CERCLA, EPCRA, and their respective implementing regulations will be calculated pursuant to EPA's "Enforcement Response Policy for Sections 304, 311, and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act."² These penalty policies are subject to inflation adjustments under the applicable Civil Monetary Penalty Inflation Adjustment Rule, as well as potential changes in EPA guidance. Also, civil penalties may be mitigated under the EPA "Supplemental Environmental Projects Policy,"³ which describes the terms under which a commitment to perform an environmental project may mitigate, in part, a civil penalty. Even if you are unaware of any mitigating or exculpatory factors, we are extending to you the opportunity to commence settlement discussions concerning the above-described violations.

Please note that, pursuant to regulations located at 40 CFR Part 2, Subpart B, you are entitled to assert a business confidentiality claim covering any part of the submitted information as defined in 40 CFR 2.201(c). Asserting a business confidentiality claim does not relieve you from the obligation to respond fully to this letter. Failure to assert such a claim makes the submitted information subject to public disclosure upon request and without further notice to you, pursuant to the Freedom of Information Act, 5 U.S.C. § 552. Information subject to a business confidentiality claim may be available to the public only to the extent set forth in the above-cited regulation. EPA has authority to use the information requested herein in an administrative, civil, or criminal action. In addition, EPA has not waived any rights to take enforcement action for past or future violations.

EPA encourages the Company to explore the possibility of settlement. If you are interested in commencing settlement negotiations or have any questions regarding this notice, please contact Jeremy Johnstone of my staff at (415) 972-3499 or johnstone.jeremy@epa.gov, or have your counsel contact Madeline Gallo, Assistant Regional Counsel, at (415) 972-3539 or gallo.madeline@epa.gov, to schedule a meeting or conference call. We thank you in advance for your cooperation.

Sincerely,



Daniel A. Meer, Assistant Director
Superfund Division

cc (via email):

¹ <https://www.epa.gov/sites/production/files/documents/112rcep062012.pdf>

² <https://www.epa.gov/sites/production/files/documents/epcra304.pdf>

³ <https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf>

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